

AMENDED IN ASSEMBLY APRIL 22, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1873

Introduced by Assembly ~~Member~~ Members Gonzalez and Mullin

February 19, 2014

An act to amend Sections 4004 and 10703 of, and to add Section 4000.5 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1873, as amended, Gonzalez. Mail ballot elections.

(1) Existing law provides for the calling of a special election to fill a congressional or legislative vacancy. Under existing law, the governing body of a local agency is authorized to conduct a local, special, or consolidated election wholly by mail under specified conditions.

This bill would authorize a board of supervisors of a county to conduct a special election or special consolidated election to fill a congressional or legislative vacancy wholly by mail under specified conditions. *The bill would also authorize any jurisdiction conducting a special election wholly by mail to process vote by mail ballot return envelopes beginning 29 days before the election, and would authorize any jurisdiction in possession of the necessary computer capability to process vote by mail ballots on the 10th business day before the election, as specified.*

(2) Existing law authorizes an election in a small city, defined as a city with a population of 100,000 or less, or in a school district or special district, to be conducted wholly as an all-mail ballot election, subject to certain conditions, including that the election is a special election to fill a vacancy in the legislative body or governing body and that the election not be consolidated with any other election.

This bill would remove the requirement that an all-mail ballot election be conducted only in a city with a population of 100,000 or less. The bill would also delete the provision prohibiting a consolidated election from being conducted wholly by mail, and would instead provide that in order to conduct an all-mail ballot election in a consolidated election in which boundaries overlap, all jurisdictions of the overlapping boundaries would be required to agree to conduct the election as an all-mail ballot election. The bill would additionally authorize a municipal election, as specified, to be conducted as an all-mail ballot election.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4000.5 is added to the Elections Code,
2 to read:
3 4000.5. (a) Notwithstanding Section 4000, a special election
4 or special consolidated election may be conducted wholly by mail
5 to fill a vacancy in a congressional or legislative office if all of the
6 following apply:
7 (1) ~~The board of supervisors,~~ *supervisors of each county that*
8 *lies in whole or in part within the congressional or legislative*
9 *district,* by resolution, authorizes the use of mailed ballots for the
10 election.
11 (2) The election does not occur on the same date as a statewide
12 primary or general election or any other election conducted in an
13 overlapping jurisdiction that is not consolidated and conducted
14 wholly by mail pursuant to this section.
15 (3) (A) At least one ballot dropoff location is provided per city
16 and is open during business hours to receive voted ballots
17 beginning 21 days before the date of the election.
18 (B) The number of dropoff locations in unincorporated areas
19 shall be based on the number of unincorporated registered voters
20 divided by 100,000 (rounded to the next whole number) with no
21 less than one location to be selected.
22 (C) *On at least one Saturday and Sunday on or after the date*
23 *an elections official first delivers ballots to voters, the elections*
24 *official shall allow any voter to vote the ballot at the office of the*
25 *elections official pursuant to Section 3018. The elections official*
26 *shall determine the hours of operation for each Saturday and*

1 *Sunday, provided that the office of the elections official shall be*
2 *open to voters for a minimum of six hours on each designated*
3 *Saturday and Sunday.*

4 ~~(C)~~

5 (D) At least one polling place is provided ~~pursuant to~~
6 ~~subparagraphs (A) and (B) where voters can~~ *per city or the polling*
7 *places are fixed in a manner so that there is one polling place for*
8 *every 100,000 residents within the congressional or legislative*
9 *district, as determined by the annual city total population rankings*
10 *by the Demographic Research Unit of the Department of Finance,*
11 *on the 88th day prior to the day of the election, whichever results*
12 *in more polling places. A polling place shall allow voters to request*
13 *a ballot between 7 a.m. and 8 p.m. on the day of the election if*
14 *they have not received their ballots in the mail or if they need*
15 *replacement ballots for any other reason.*

16 (E) *Upon the request of the city, county, or district, the elections*
17 *official may provide, at his or her discretion, additional ballot*
18 *dropoff locations and polling places.*

19 (4) The elections official delivers to each voter all supplies
20 necessary for the use and return of the mail ballot, including an
21 envelope for the return of the voted mail ballot with postage
22 prepaid.

23 (5) The elections official delivers to each voter, with either the
24 sample ballot sent pursuant to Section 13303 or with the voter's
25 ballot, a list of the ballot dropoff locations pursuant to paragraph
26 (3), and ~~also~~ posts that list on the Internet Web site of the county
27 elections office.

28 ~~(b) If a congressional or legislative district overlaps multiple~~
29 ~~counties, the county having the majority of the voters in the vacant~~
30 ~~jurisdiction shall determine whether the special election will be~~
31 ~~conducted wholly by mail pursuant to this section.~~

32 (b) *If the congressional or legislative district includes more*
33 *than one county, the board of supervisors of every county within*
34 *the district shall enter into an agreement to conduct the special*
35 *election wholly by mail pursuant to this section.*

36 (c) The return of voted mail ballots is subject to *subdivision (d)*
37 *and Section 3017.*

38 (d) (1) *All vote by mail ballots cast under this section shall be*
39 *received by the elections official from whom they were obtained*

1 *or by the precinct board no later than the close of the polls on*
2 *election day.*

3 *(2) Notwithstanding paragraph (1), any vote by mail ballot cast*
4 *under this section shall be timely cast if it is received by the voter's*
5 *elections official no later than three days after election day and*
6 *either of the following is satisfied:*

7 *(A) The ballot is postmarked on or before election day or is time*
8 *stamped or date stamped by a bona fide private mail delivery*
9 *company on or before election day.*

10 *(B) If the ballot has no postmark, a postmark with no date, or*
11 *an illegible postmark, the vote by mail ballot identification*
12 *envelope is signed and dated pursuant to Section 3011 on or before*
13 *election day.*

14 *(e) (1) Any jurisdiction conducting a special election under*
15 *this section may process vote by mail ballot return envelopes*
16 *beginning 29 days before the election. Processing vote by mail*
17 *ballot return envelopes may include verifying the voter's signature*
18 *on the vote by mail ballot return envelope and updating voter*
19 *history records.*

20 *(2) Any jurisdiction conducting a special election under this*
21 *section and in possession of the necessary computer capability*
22 *may start to process vote by mail ballots on the 10th business day*
23 *before the election. Processing vote by mail ballots includes*
24 *opening vote by mail ballot return envelopes, removing ballots,*
25 *duplicating any damaged ballots, and preparing the ballots to be*
26 *machine read, or machine reading them, but under no*
27 *circumstances shall a vote count be accessed or released until 8*
28 *p.m. on the day of the election. All other jurisdictions shall start*
29 *to process vote by mail ballots at 5 p.m. on the day before the*
30 *election.*

31 *(f) Results of any vote by mail ballot tabulation or count shall*
32 *not be released before the close of the polls on the day of the*
33 *election.*

34 SEC. 2. Section 4004 of the Elections Code is amended to read:

35 4004. Notwithstanding Sections 1500 and 4000, an election in
36 a county, city, school district, or special district may be conducted
37 wholly as an all-mail ballot election, subject to the following
38 conditions:

1 (a) The legislative body of the *county or* city or the governing
2 body of the school district or special district, by resolution,
3 authorizes the use of mailed ballots for the election.

4 (b) The election is a special election to fill a vacancy in the
5 legislative body or governing body, or is a special election
6 conducted pursuant to Chapter 3 (commencing with Section 9200)
7 of Division 9.

8 (c) The election is not held on the same date as a statewide
9 primary or general election.

10 (d) In a consolidated election in which boundaries overlap, all
11 of the jurisdictions within the overlapping boundaries agree to
12 conduct the election as an all-mail ballot election.

13 (e) The return of voted mail ballots is subject to Section 3017.

14 SEC. 3. Section 10703 of the Elections Code is amended to
15 read:

16 10703. A special election to fill a vacancy in the office of
17 Representative in Congress, State Senator, or Member of the
18 Assembly shall be conducted on a Tuesday at least 126 days, but
19 not more than 140 days, following the issuance of an election
20 proclamation by the Governor pursuant to Section 1773 of the
21 Government Code, except that the special election may be
22 conducted within 180 days following the proclamation in order
23 that the election or the primary election may be consolidated with
24 the next regularly scheduled statewide election or local election
25 occurring wholly or partially within the same territory in which
26 the vacancy exists, provided that the voters eligible to vote in the
27 local election comprise at least 50 percent of all the voters eligible
28 to vote on the vacancy.

29 (a) Except as provided in Chapter 3 (commencing with Section
30 10730), a special election or a primary election may not be
31 conducted on the day after a state holiday.

32 (b) A special election described in this section may be conducted
33 wholly by mail pursuant to Section 4000.5.